



NATIONAL MEDIATION BOARD
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30 NMB No. 2
October 28, 2002

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Re: NMB Case No. R-6902
United Airlines, Inc.

Gentlemen and Ladies:

This determination addresses the October 18, 2002 appeal filed by the International Federation of Professional and Technical Engineers (IFPTE or Organization) of Investigator Mary L. Johnson's eligibility rulings. For the reasons discussed below, the appeal is denied.

I.

Procedural Background

On July 30, 2002, the IFPTE filed an application pursuant to the Railway Labor Act, 45 U.S.C. § 151, 152, Ninth (Section 2, Ninth), seeking to represent the craft or class of Engineering and Related Employees, employees of United Airlines, Inc. (United or Carrier). On August 13, 2002, United provided a list of potential eligible voters (list). The Board authorized an election on September 6, 2002. On September 13, 2002, the Investigator sent a letter to the Carrier and Organization setting a schedule for challenges, objections and the election period. The letter also informed the participants that the election would be conducted by Telephone Electronic Voting (TEV). TEV Instructions were mailed to employees in the craft or class on September 30, 2002, and the tally is scheduled for 2:00 p.m., ET, Monday, October 28, 2002.

The Organization filed challenges to the list of eligible voters on September 24, 2002. Among other challenges, IFPTE asserted that 44 Lead Engineers were improperly excluded from the list. United responded on October 8, 2002 that the Lead Engineers were excluded because they are ineligible management officials. The Investigator issued rulings on October 15, 2002, stating that Lead Engineers are not eligible because they are “first level” management officials. IFPTE appealed this ruling on October 18, 2002, and the Carrier responded on October 23, 2002.

II.

Contentions

IFPTE

The Organization asserts that the Lead Engineers “have an overwhelming community of interest with the other engineering employees who are eligible to vote in this election.” According to

IFPTE, Lead Engineers “perform traditional lead functions” and have “limited supervisory duties.” The Organization notes that Lead Engineers were eligible to vote in 1999, the last time the Board conducted an election among United’s Engineering and Related Employees, and that these individuals continue to perform work within the craft or class. In support of its appeal, the Organization cites the Board’s decisions in *America West Airlines, Inc.*, 25 NMB 10 (1997) and *USAir, Inc.*, 19 NMB 423 (1992). The Organization also submitted a declaration from a Lead Engineer who asserts that his duties did not change when he became a Lead a year and a half ago.

United

United asserts that Lead Engineers are management officials. According to the Carrier, these individuals direct and evaluate the work of their subordinates, have authority to commit Carrier funds, “participate integrally” in the hiring process, effectively exercise authority to recommend promotions, issue discipline and effectively recommend termination, resolve grievances, and approve overtime. In support of its appeal, United cites several Board decisions, including *American Airlines, Inc.*, 24 NMB 521 (1997) and *British Airways, Inc.*, 7 NMB 369 (1980). The Carrier also argues that, contrary to IFPTE’s assertions, the Lead Engineer position was restructured in 2001 to include “substantial new supervisory/managerial responsibilities, reflected by a substantial salary override.”

III.

Lead Engineers’ Responsibilities

According to the evidence provided, a Lead Engineer: “[p]rovides work leadership and direction to assigned engineer staff and ensures the technical validation of work performed. Provides technical oversight for work quality and regulatory compliance. Provides administrative support in evaluating

employee performance, coaching and mentoring, and hiring and interviewing. Represents an assigned group in cross-functional meetings.”

In February 2001, the Lead Engineers received a memo from Vice President of Engineering and Technical Support, Lou Mancini. Mancini announced a new “lead compensation program” with “additional responsibilities.”

The record establishes that Lead Engineers perform many of the same functions as Engineers. Lead Engineers report to: Managers of Engineering; the Manager of Base Engineering; the Manager of Fleet Engineering; the Manager of Operational Engineering; and the Manager of Remanufacturing and Processing Engineering. Lead Engineers substitute for their managers when the managers are unavailable. In addition, the record establishes that Lead Engineers evaluate engineering employees and effectively make recommendations for promotions. Lead Engineers participate in the hiring process and investigate allegations of misconduct which could lead to disciplinary action. The Carrier has provided additional evidence that Lead Engineers are involved to a further extent in the disciplinary process, for example, issuing letters of warning.

In its filing before the Investigator, IFPTE submitted declarations from Lead Engineers who assert that their authority to commit funds is circumscribed. According to United, however, certain Lead Engineers have “substantial signing authority to commit . . . funds.” Approximately 10 Lead Engineers have cost centers with annual budgets ranging from \$457,000 to over \$2,000,000. United also asserts that Lead Engineers can authorize overtime. According to IFPTE, however, only managers can authorize overtime.

IV.

Management Officials

Section 5.312 of the Board's Representation Manual (Manual) details factors considered in determining whether an individual is a management official. These factors include:

[W]hether the involved individual has the authority to discharge and/or discipline employees or to effectively recommend the same; the extent of supervisory authority; the ability to authorize and grant overtime; the authority to transfer and/or establish assignments; the authority to create carrier policy; the authority and the extent to which carrier funds may be committed; whether the authority exercised is circumscribed by operating and policy manuals; the placement of the individual in the organizational hierarchy of the carrier; and any other relevant factors

See also Pan American World Airways, Inc., 5 NMB 112, 115 (1973) (the factors the Board examines are considered cumulatively).

In *American Airlines, Inc.*, 24 NMB 521 (1997), the Board found "Maintenance Supervisors" to be "first level" management officials. The record in that case established that the Supervisors were involved in the investigation of incidents which could lead to disciplinary action, and were involved in the hiring process. In addition, the Supervisors evaluated certain employees and had the authority to grant overtime within budget constraints.

In *British Airways, Inc.*, 7 NMB 369, 390 (1980), the Board applied *Pan American, above*, and found the “Purchasing Stores Supervisor” was “not an employee or subordinate official” and accordingly was not an eligible voter. The Supervisor assigned work, authorized overtime, and approved invoices up to \$250,000 per year. In addition, the Supervisor, along with the Department Manager and Stores Superintendent, interviewed job applicants and was responsible for initiating disciplinary action.

In *America West Airlines, Inc.*, 25 NMB 10 (1997), the Board also applied *Pan American, above*, and Manual Section 5.312 in determining that Team Leads were not management officials. The record in that case established that Team Leads assigned work, and participated in interviewing candidates for Lead positions. Team Leads did not have authority to discipline or discharge, assign overtime, or expend carrier funds.

In *USAir, Inc.*, 19 NMB 423 (1992), the Board found that individuals who had no authority to hire or discharge, or commit significant carrier funds were eligible employees. The level of disciplinary authority exercised in that case was “generally limited to initiating . . . discussions over minor disciplinary problems.” While the record in *USAir* contained an assertion that the employees at issue had the authority to conduct performance evaluations, there was no evidence to support that assertion.

Based on the cumulative record evidence, Manual Section 5.312 and the determinations cited above, the Board concludes that United’s Lead Engineers are ineligible. Lead Engineers direct work, participate in the hiring process, evaluate employee performance, effectively recommend promotions, play a role in disciplinary proceedings including issuing letters of warning, approve overtime, and to varying degrees commit Carrier funds. The record establishes the level of demonstrated authority exercised by these individuals is similar to that of the supervisors in *American, above*, and *British, above*. Accordingly, the Investigator’s ruling is upheld, and the Lead Engineers are

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removed from the list. The tally will take place as scheduled at 2:00 p.m. ET, Monday, October 28, 2002.

By direction of the NATIONAL MEDIATION BOARD.

Benetta M. Mansfield

Benetta Mansfield
Chief of Staff